

Les Weisbrod (TBN 21104900)
Alexandra Boone (TBN 00795259)
Max Freeman (#028784)
MILLERWEISBROD, L.L.P.
11551 Forest Central Drive, Suite 300
Dallas, Texas 75243
Telephone: (214) 987-0005
Fax: (214) 987-2545
lweisbrod@millerweisbrod.com

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS PRODUCTS
LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

This Document Relates to:

ROBERT G. HARBRIDGE,

Plaintiff,

v.

C. R. BARD, INC., a New Jersey
Corporation;

Defendants.

Case No. CV-16-00008-PHX-DGC

**PLAINTIFF'S UNOPPOSED MOTION
FOR LEAVE TO FILE AMENDED
COMPLAINT AND MEMORANDUM
IN SUPPORT**

Pursuant to Federal Rule of Civil Procedure 15(a), Plaintiff respectfully seeks leave to amend his original complaint, and in support thereof, would show the Court the following:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. FACTUAL BACKGROUND

On January 5, 2016, Plaintiff filed his initial short form complaint in MDL 2641, In Re: Bard IVC Filters Products Liability Litigation naming only C. R. Bard, Inc. as a defendant. See 2:16-cv-00008-DGC, Dkt. No. 1. Subsequently, counsel for Plaintiff noticed that it had inadvertently not placed a check in the box next to defendant Bard Peripheral Vascular, Inc. on the short form complaint. Plaintiff filed his amended short form complaint to correct this oversight. See 2:15-md-02641-DGC, Dkt. No. 707. This was done without seeking leave of Court in error. Counsel for Bard caught this error but unfortunately, its letter advising of its objections to the amended short form complaint was misrouted and did not reach Plaintiff's counsel until after Defendants' Motion to Strike [Dkt. 983-1] was filed.

II. REQUEST FOR LEAVE TO FILE AMENDED COMPLAINT

As set forth above, Plaintiff seeks leave to amend his complaint to add Bard Peripheral Vascular, Inc. as a defendant in this matter. On the short form complaint used in this litigation, there are check boxes for each of the two defendants, and the check box in front of defendant Bard Peripheral Vascular, Inc. was inadvertently left un-checked when the Original Complaint was prepared and filed. Plaintiff is seeking to correct this omission.

III. ARGUMENT AND AUTHORITIES

Plaintiff's request is made very early in this litigation, prior to the imposition of any prejudice to the defendants. Indeed, the agreed abbreviated Plaintiff Profile Form was issued only a week ago [Dkt. 927, March 3, 2016]. In addition, Plaintiff has conferred with counsel for Bard who has agreed to withdraw its Motion to Strike. They also have indicated that they do not oppose this Motion to Amend Plaintiff's Original Short Form Complaint.

IV. CONCLUSION AND REQUEST FOR RELIEF

Based on the foregoing, Plaintiff requests the Court grant his Motion for Leave to Amend his Original Complaint and allow the filing of his Amended Complaint (attached hereto as Exhibit A).

DATED this 17th day of March, 2016.

MILLER WEISBROD LLP

/s/Les Weisbrod
Attorneys for Plaintiff

CERTIFICATE OF CONFERENCE

On March 10, 2016, counsel for Plaintiff conferred with counsel for C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. who indicated defendants would not oppose this motion.

s/Les Weisbrod
Les Weisbrod

CERTIFICATE OF SERVICE

I hereby certify that on March 17, 2016, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel of record.

/s/Les Weisbrod
Les Weisbrod